
By: **Delegates Kelly, Doory, and Shank**
Introduced and read first time: February 6, 2003
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Third Party Claims Against Design Professionals**

3 FOR the purpose of prohibiting certain claims for damages for personal injury or
4 death against a design professional or an employee of a design professional by a
5 person who is not a party to a certain contract with the design professional
6 under certain circumstances; providing for certain exceptions; defining certain
7 terms; providing for the application of this Act; and generally relating to
8 prohibiting certain claims for damages for personal injury or death against
9 design professionals under certain circumstances.

10 BY adding to

11 Article - Courts and Judicial Proceedings
12 Section 3-2D-01 through 3-2D-03, inclusive, to be under the new subtitle
13 "Subtitle 2D. Third Party Claims Against Design Professionals"
14 Annotated Code of Maryland
15 (2002 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Courts and Judicial Proceedings**

19 **SUBTITLE 2D. THIRD PARTY CLAIMS AGAINST DESIGN PROFESSIONALS.**

20 3-2D-01.

21 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (B) "CLAIM" MEANS A CIVIL ACTION, INCLUDING AN ORIGINAL CLAIM,
24 COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM, FILED AGAINST A DESIGN
25 PROFESSIONAL THAT IS BASED ON THE DESIGN PROFESSIONAL'S ALLEGED
26 NEGLIGENT ACT OR OMISSION IN RENDERING PROFESSIONAL SERVICES.

1 (C) "DESIGN PROFESSIONAL" MEANS ONE OF THE FOLLOWING PERSONS, OR A
2 PERSON THAT PROVIDES DESIGN SERVICES THROUGH THE PRACTICE OF ONE OR
3 MORE OF THE FOLLOWING PERSONS:

4 (1) AN ARCHITECT LICENSED UNDER TITLE 3 OF THE BUSINESS
5 OCCUPATIONS AND PROFESSIONS ARTICLE OR AUTHORIZED BY LAW TO PRACTICE AS
6 AN ARCHITECT;

7 (2) A CONSTRUCTION INSPECTOR WHO IS AUTHORIZED BY LAW TO
8 PRACTICE AS A CONSTRUCTION INSPECTOR;

9 (3) AN INTERIOR DESIGNER CERTIFIED UNDER TITLE 8 OF THE
10 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OR AUTHORIZED BY LAW TO
11 PRACTICE AS AN INTERIOR DESIGNER;

12 (4) A LANDSCAPE ARCHITECT LICENSED UNDER TITLE 9 OF THE
13 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OR AUTHORIZED BY LAW TO
14 PRACTICE AS A LANDSCAPE ARCHITECT;

15 (5) A PROFESSIONAL DESIGN FIRM AUTHORIZED BY LAW TO PRACTICE
16 AS A PROFESSIONAL DESIGN FIRM;

17 (6) A PROFESSIONAL ENGINEER LICENSED UNDER TITLE 14 OF THE
18 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE OR AUTHORIZED BY LAW TO
19 PRACTICE AS A PROFESSIONAL ENGINEER; OR

20 (7) A PROFESSIONAL LAND SURVEYOR OR PROPERTY LINE SURVEYOR
21 LICENSED UNDER TITLE 15 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS
22 ARTICLE OR AUTHORIZED BY LAW TO PRACTICE AS A PROFESSIONAL LAND
23 SURVEYOR OR PROPERTY LINE SURVEYOR.

24 3-2D-02.

25 SECTION 3-2D-03 OF THIS SUBTITLE DOES NOT APPLY TO A CLAIM AGAINST A
26 DESIGN PROFESSIONAL FOR NEGLIGENT PREPARATION OF DESIGN PLANS AND
27 SPECIFICATIONS.

28 3-2D-03.

29 UNLESS A DESIGN PROFESSIONAL SPECIFICALLY ASSUMES BY CONTRACT,
30 RESPONSIBILITY FOR SAFETY PRACTICES ON A CONSTRUCTION PROJECT, AND THE
31 PROVISIONS OF THE CONTRACT WERE MUTUALLY NEGOTIATED, OR UNLESS A
32 DESIGN PROFESSIONAL ACTUALLY EXERCISES CONTROL OVER THE PORTION OF THE
33 PREMISES OF THE CONSTRUCTION PROJECT ON WHICH A PERSONAL INJURY OR
34 DEATH OCCURS, A PERSON WHO IS NOT PARTY TO A CONTRACT WITH THE DESIGN
35 PROFESSIONAL MAY NOT SEEK DAMAGES FOR PERSONAL INJURY OR DEATH
36 AGAINST:

37 (1) THE DESIGN PROFESSIONAL WHO CONTRACTS TO PERFORM THE
38 PROFESSIONAL SERVICES ON THE CONSTRUCTION PROJECT; OR

1 (2) AN EMPLOYEE OF THE DESIGN PROFESSIONAL WHO ASSISTS OR
2 REPRESENTS THE DESIGN PROFESSIONAL IN THE PERFORMANCE OF THE
3 PROFESSIONAL SERVICES ON THE SITE OF THE CONSTRUCTION PROJECT.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
5 construed to apply only prospectively and may not be applied or interpreted to have
6 any effect on or application to any cause of action arising before the effective date of
7 this Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2003.